



Tonga

PRICE AND WAGE CONTROL ACT

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PRICE AND WAGE CONTROL ACT

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PRICE AND WAGE CONTROL ACT

AN ACT TO MAKE PROVISION FOR CONTROLLING THE PRICES OF GOODS AND SERVICES AND WAGE RATES¹

Commencement [8th September, 1947]

1 Short title

This Act may be cited as the Price and Wage Control Act.²

2 Act binds the Crown

The provisions of this Act in relation to wages and wage rates shall bind the Crown.³

3 Interpretation

In this Act unless the context otherwise requires —

“**cash**” includes coins, banknotes, cheques, postal orders or payment into a bank or savings account;⁴

“**Competent Authority**” means the Competent Authority for the control of the prices of goods and services and of wage rates;⁵

“**employee**” means any person employed under a contract of service or of apprenticeship. For the avoidance of doubt it includes any civil servant, as defined in section 2 of the Interpretation Act⁶, as amended, but does not include any non-civilian member of His Majesty’s Armed Forces or any person working on the family land as a member of the family rather than a

paid worker, but it does include a member of the family working as a paid worker;⁷

“**kind**” means any form of payment arising out of a contract of service or of apprenticeship other than in cash;⁸

“**maximum price**” means the maximum price for goods or services fixed by the Competent Authority under the provisions of this Act;

“**price**” when used in connection with the provision of services includes the rate charged for supplying or carrying on any service and the term price or rate shall be deemed to include valuable consideration of any kind whatsoever direct or indirect, but does not include wages or wage rates;⁹

“**retail**” when used in relation to any sale means a sale to a person for consumption or use otherwise than in his trade or business;

“**retail price**” means the price paid or payable for goods sold by retail;

“**service**” means any service supplied or carried on for hire or reward by any person;

“**trader**” means any person who in connection with any business carried on by him produces, sells, has sold, or proposes to sell any goods, or who supplies or who carries on any service;¹⁰

“**wage rate**” means the cash payment per hour or per day of work or the cash equivalent if paid in kind or partly in kind and partly in cash;¹¹

“**wages**” means the sum paid in cash to an employee under his contract of employment, for a specified time and includes salaries;¹²

“**wholesale**” means the sale or supply of goods to a person for the purpose of resale or for use by such person in his trade or business;

“**wholesale price**” means the price paid or payable for goods sold by wholesale.

4 Appointment of Competent Authority

Cabinet may appoint one or more persons to be the Competent Authority, and the Competent Authority shall have and may exercise such powers and functions as are conferred on him by this Act.¹³

5 Competent Authority may fix maximum prices of goods or services and minimum wage rates

- (1) If the Competent Authority considers it expedient to control the prices of goods or services or minimum wage rates in order to secure their availability at fair prices he may, in his discretion by order fix and determine the maximum prices at which goods may be sold or services provided, the minimum wage rates which may be paid, and the manner in which payment

for goods and services or wages shall be made either generally or in any specified part of the Kingdom:

Provided that an order of the Competent Authority relating to the minimum wage rates shall not come into force until approved by Cabinet.

- (2) Before deciding upon whether to make a minimum wage rate order the Competent Authority may if he considers expedient to do so, invite representations from interested persons and take any such representations into account in so deciding.
- (3) In considering whether or not to fix and declare minimum wage rates in accordance with subsection (1), the Competent Authority shall have regard to factors such as the economic conditions, employment situation and wage levels generally prevailing in the country, the need to provide workmen fair remuneration for work so as to motivate production, capacity of the employers to pay, cost of living and relative living standard of the people.
- (4) The Competent Authority may with the approval of the Cabinet exempt any particular industry or employer from the observance of the minimum wage rate order.¹⁴

6 Manner in which maximum price may be fixed

An order made under the provisions of section 5 may direct that the maximum price shall not exceed a specified sum or may prescribe the manner in which the maximum price shall be ascertained and may —

- (a) fix different maximum prices for the same class of goods or services having regard to the terms upon which and the conditions and circumstances in which the goods are manufactured, imported or sold or the services provided; and
- (b) prescribe alternative methods by which the maximum price may be ascertained for the same or different classes of goods.

7 Incidental provisions

An order under the provisions of section 5 may contain such incidental and supplementary provisions as are necessary or expedient for the purposes of the order.

8 Proportionate prices

Where the quantity of goods sold or offered for sale is greater or less than the quantity specified in the price order such goods shall, subject to any express provision to the contrary in the price order, be sold or offered for sale at the proportionately increased or diminished price as the case may be.

9 Competent Authority may vary price order

The Competent Authority may by order or by notice in writing addressed to any trader, cancel or vary the terms of any price or minimum wage rate order as regards the goods, services or minimum wage rate specified in the order or notice or exempt any goods from the operation of such price order:

Provided that in the case of minimum wage rates the Competent Authority shall first obtain the approval of Cabinet.¹⁵

10 Appeal

Any person aggrieved by an order or notice made or given by the Competent Authority may, within 30 days of the date of such order or notice, appeal by petition in writing to the Cabinet.

11 Power to prohibit sale of goods until order made

Where the Competent Authority has reasonable cause to believe that the cost of goods imported into the Kingdom after the commencement of this Act has materially altered since the making of any price order in respect of such goods he may by order or by notice in writing to the person concerned prohibit the sale of such goods for such period as will enable him to vary or confirm the existing price order or to make a new price order in respect of such goods.

12 Sale at more than maximum price or upon conditions

No person shall —

- (a) sell or buy or agree or offer to sell or buy goods at a greater price than the maximum price;
- (b) provide or agree to provide or obtain or agree to obtain services at a greater price than the maximum price;
- (c) except with the written permission of the Competent Authority sell or agree to sell any goods or provide or offer to provide any service subject to a condition requiring the buying of any other goods or the provision of any other services;
- (d) pay or agree to pay or to work for wages lower than the minimum wage rate specified in a relevant order.¹⁶

13 Refusal to sell at maximum price

- (1) No person carrying on the business of the sale of goods and having goods available and no person engaged in supplying or carrying on any service shall except with reasonable cause, the onus of proving which shall be upon him,

refuse to sell goods or supply any service to any person tendering immediate payment at the maximum price for such goods or services.

- (2) In the case of a refusal to sell goods reasonable cause shall be deemed to include any case where the person refusing to sell —
 - (a) supplied a reasonable quantity of the goods, or, after making reasonable provision for private consumption or use, had not a sufficient quantity of the goods in his custody or under his control to supply the quantity demanded, in addition to the quantity required to satisfy all other contracts then subsisting, under which he was obliged to supply quantities of such goods for use or consumption within the Kingdom and the ordinary requirements of his business;
 - (b) was a wholesale trader in the goods and the person who demanded to be supplied was not a manufacturer or a retail trader therein or in goods made or partly made therefrom;
 - (c) was acting in accordance with a practice for the time being approved by the Competent Authority.
- (3) For the purposes of determining what is a reasonable quantity of any goods within the meaning of this Act, regard shall be had to all the circumstances of the case, including the question whether the person who demanded to be supplied was or was not, at the time of the demand, carrying on business as a retail trader in the goods demanded, either alone or with other goods.
- (4) The provisions of subsection (2) of this section shall apply, *mutatis mutandis*, to a refusal to supply or carry on any service.

14 Prices to be indicated

A trader having goods displayed for sale shall legibly mark thereon, or otherwise indicate in plain figures, the retail price of any such goods, for the information of the public.

15 Delivery of invoice

- (1) A trader who sells by wholesale any goods the maximum price of which is fixed shall supply at the time of sale to every purchaser an invoice containing the particulars undermentioned and shall retain a copy of such invoice —
 - (a) the name and address of the seller and purchaser;
 - (b) the date;
 - (c) a description of the goods;
 - (d) the quantity of the goods;
 - (e) the price charged.

- (2) A purchaser who buys by wholesale any goods the maximum price of which is fixed shall demand and receive at the time of sale the invoice required by subsection (1).
- (3) The Competent Authority may require a trader selling goods by wholesale to a retailer to state on the invoice required by subsection (1) the maximum price fixed for the sale by retail of such goods by the wholesaler.

16 Powers of Competent Authority to obtain information

- (1) For the purpose of enabling him to carry out the duties and exercise his powers under the provisions of the Act the Competent Authority, and any officer authorized in writing by him, may—
 - (a) require any trader to supply him either orally or in writing with any information in his possession relating to goods or services, or to wages and hours worked therefor;¹⁷
 - (b) by notice published in the Gazette or in a newspaper or news-sheet circulating in the Kingdom or by written notice to any trader individually require such trader or any specified class of traders to render a return or a series of returns in such form as may be specified setting forth to the best of such person's knowledge and belief such particulars regarding his dealings in relation to any goods or services or to wages and the hours worked therefor as may be specified in the notice;¹⁸
 - (c) at any reasonable time require any trader to produce for his inspection any document or documents of any kind whatsoever relating wholly or in part to the business carried on by such trader in relation to the sale of goods or the carrying on or supply of services, or to the payment of wages and the hours worked therefor;¹⁹
 - (d) require any trader to furnish him with copies of any such document as is referred to in paragraph (c);
 - (e) enter during business hours upon any place or premises in the occupation of any trader and search for and inspect any documents of the kind referred to in paragraph (c) hereof and any goods and make copies or abstracts of such documents and take samples of such goods and take such steps as may be reasonably necessary to effect such purposes;
 - (f) take possession of any documents which appear to him to constitute *prima facie* evidence of a breach of a price or wage rate order.²⁰
- (2) No person shall —
 - (a) obstruct the Competent Authority or an authorized officer in the exercise of his powers under the provisions of this section;
 - (b) wilfully fail to give information or to produce any document lawfully required of him under the provisions of this section;

- (c) knowingly give any false information relating to goods and services or to wages and the hours worked therefor to the Competent Authority or any authorized officer.²¹

17 Record of prices to be kept

- (1) Every trader shall keep records and accounts, including stock and costing records, of all goods offered by him for sale to the public.
- (2) No trader shall, without the consent of the Competent Authority, destroy any document whatever relating wholly or in part to any business carried on by him, or to any goods or services, until a period of 3 years has elapsed since the documents originated.

18 Penalty

Any person who contravenes or fails to comply with any of the provisions of this Act or of any order, notice, direction or requirement lawfully made or given thereunder shall be liable to a fine not exceeding \$100 or to a term of imprisonment not exceeding 2 years or to both such imprisonment and fine.

19 Compensation to purchaser buying goods at more than the maximum price

Where a person is convicted of selling goods at more than the maximum price and

- (a) the Court considers that the purchaser did not know and could not reasonably be expected to know that the price paid was in excess of the maximum price; or
- (b) the purchaser reported the transaction to the Competent Authority or to a police officer of or above the rank of Inspector or District Officer or Town Officer within 48 hours of the transaction,

the Court may, in addition to any other lawful penalty that may be imposed, order the person convicted to pay to the purchaser the difference between the maximum price and the price at which the goods were sold or the services supplied together with such sum, if any, as the Court considers just compensation for any expenses incurred by him as a result of the overcharge.

20 Offences by corporations

Where a person charged with an offence under the provisions of this Act is a body corporate every person who, at the time of the commission of the offence, was a director or officer of the body corporate may be charged jointly in the same proceedings with such body corporate, and where the body corporate is convicted of the offence, every such director or officer shall be deemed to be guilty of that

offence unless he satisfies the Court that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence.

21 Responsibility of employer for acts of his servants

Any employer who employs in his shop, store or other place of business any agent, clerk, servant or other person shall be answerable for the acts or omissions of such agent, clerk, or servant in so far as they concern the business of such employer; and if such agent, clerk or servant or other person commits any act or makes any omission which is an offence or which would be an offence if made or committed by such employer, such employer and his agent, clerk, servant or other person may be jointly charged with such offence.

22 Procedure for prosecutions

All prosecutions for offences against this Act shall be instituted and conducted by the Competent Authority, or by any other person authorized by him to act on his behalf, or by the Police, in the Magistrate's Court for the District in which such offence shall have been committed.²²

23 Complaints of underpayment of wages

- (1) Any employee who considers that he is not being or has not been paid in accordance with a relevant wage rate order may lodge a complaint in writing with the Competent Authority or a person authorised and designated by the Competent Authority for this purpose.
- (2) The Competent Authority or the designated person shall investigate the complaint promptly and if he considers it to be well-founded shall forthwith inform the employer accordingly.
- (3) Should the employer fail to make good the underpayment either in whole or in part within a period of 14 days of being so informed, the Competent Authority or the designated person shall institute a claim in the Magistrate's Court on behalf of the aggrieved person for the amount then claimed to be underpaid.
- (4) Notwithstanding anything in section 20 and 64 of the Magistrate's Court Act, the Competent Authority or a person authorized under section 22 and under this section, though not of counsel nor a solicitor, may prosecute any claim under subsection (3).²³

24 Maximum price and wage orders

- (1) Cabinet may, by Order, prescribe a general freeze on prices of goods and services, salaries and wages or a maximum wage or maximum rate of increase

in salaries and wages as an exceptional measure if overall economic circumstances so warrant it, for such period as is reasonable.²⁴

- (2) It shall be an offence to pay or to receive goods, services, salaries or wages in excess of any maximum prescribed under subsection (1).²⁵

25 Regulations²⁶

Cabinet may make regulations for the better administration of the purposes of this Act.

NOTE

SUBSIDIARY LEGISLATION

Price and Wage Control Orders, being temporary in nature, are omitted from this Edition.

ENDNOTES

¹ **1988 Revised Edition Cap. 113**; Acts 3 of 1947, 22 of 1950, 12 of 1956, 28 of 1984

Amending Acts	Commencement
Act 42 of 2010	24 th November 2010
Act 23 of 2013	11 th November 2013

² Amended by Act 28 of 1984

³ Inserted by Act 28 of 1984

⁴ Inserted by Act 28 of 1984

⁵ Amended by Act 28 of 1984

⁶ Cap. 1.11

⁷ Inserted by Act 28 of 1984 and Amended by Act 22 of 2013

⁸ Inserted by Act 28 of 1984

⁹ Amended by Act 28 of 1984

¹⁰ Amended by Act 28 of 1984

¹¹ Inserted by Act 28 of 1984

¹² Inserted by Act 28 of 1984

¹³ Amended by Acts 28 of 1984 and 42 of 2010

¹⁴ Substituted by Act 28 of 1984

¹⁵ Substituted by Act 28 of 1984

¹⁶ Inserted by Act 28 of 1984

¹⁷ Amended by Act 28 of 1984

¹⁸ Amended by Act 28 of 1984

¹⁹ Amended by Act 28 of 1984

²⁰ Amended by Act 28 of 1984

²¹ Amended by Act 28 of 1984

²² Substituted by Act 12 of 1956

²³ Inserted by Act 28 of 1984

²⁴ Amended by Act 42 of 2010

²⁵ Inserted by Act 28 of 1984

²⁶ Amended by Act 42 of 2010